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MARK F. SMITH
SBTECHNOLOGY LAW
7577 CENTRAL PARK BLVD
SUITE 102
MASON OH 45040

COPY MAILED

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Lightcap et al. :
Application No. 09/128,753 :
Filed: August 4, 1998 :
Attorney Docket No. DVL-003PAT :

This is a decision on the petition under 37 CFR 1.137(b) filed September 16, 2002, to revive the above-identified application. The Office will also treat the petition as a request for reconsideration under 37 CFR 1.137(a).

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 21, 2001, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2001. A Notice of Abandonment was mailed on May 8, 2002.

Petitioner has supplied a showing in compliance with 37 CFR 1.8(b) that a change of correspondence address was mailed to the Office on April 13, 2001. However, Office records fail to indicate that the change of correspondence was ever recorded. Petitioner has established that the September 21, 2001 Office action was sent to an incorrect address despite the exercise of due care by petitioner to change the correspondence address. Therefore, relief under 37 CFR 1.137(a) will be granted.

Since the petition under 37 CFR 1.137(a) is granted, the petition under 37 CFR 1.137(b) is dismissed as moot. The \$640 petition fee will be scheduled to be refunded.

The file is now being forwarded to Technology Center 1600.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 9-25-02

2 Serial/Patent # 09/128,753

3 Please refund the following fee(s):

4 PAPER
NUMBER

5 DATE
FILED

6 AMOUNT

Filing

\$

Amendment

\$

Extension of Time

\$

Notice of Appeal/Appeal

\$

☒ Petition

21

9-16-02

\$ 640

Issue

\$

Cert of Correction/Terminal Disc.

\$

Maintenance

\$

Assignment

\$

Other

\$

7 TOTAL AMOUNT
OF REFUND

\$ 640

8 TO BE REFUNDED BY:

☒

Treasury Check

Credit Deposit A/C #:

9

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10 REASON:

Overpayment

Duplicate Payment

☒ No Fee Due (Explanation):

Petition dismissed as moot

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME:

Steven Brantley

TITLE:

Petitions Att'y

SIGNATURE:

[Signature]

PHONE:

306-5683

OFFICE:

Petitions

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED:

[Signature]

DATE:

10/4/02

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